

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 103, “Corporal Punishment Ban; Restraint; Physical Confinement and Detention,” Iowa Administrative Code.

In 2008, detailed rules regarding seclusion (“time out” rooms) and restraint of students, including allowable parameters when a student is physically confined or detained, were added to this chapter. Item 1 contains a technical correction only. Iowa Protection and Advocacy has suggested amendments to the rules that the Department believes are in the best interest of students, and these are reflected in Item 2. The third item is based on a suggestion from the federal Office for Special Education Programs.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before October 26, 2010, at 4:30 p.m. Comments on the proposed amendments should be directed to Thomas Mayes, Legal Consultant, Bureau of Student and Family Support Services, Iowa Department of Education, Third Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)242-5614; E-mail Thomas.Mayes@iowa.gov; or fax (515)242-6019.

These amendments are intended to implement Iowa Code sections 256B.3 and 280.21.

The following amendments are proposed.

ITEM 1. Amend rule **281—103.6(256B,280)**, numbered paragraph “5,” as follows:

5. The period of detention and confinement is reasonable, considering the age, size, and physical and mental condition of the student subject to confinement and detention, and not in excess of the hours in a school day as defined by local board policy or rule; however, reasonable periods of before- and after-school detention are permissible. If a period of physical confinement and detention exceeds the shorter of 60 minutes or the school’s typical class period, staff members shall evaluate the continued need for physical confinement and detention, shall obtain administrator (or designee) approval for any continued confinement and detention ~~beyond the initial periodic reevaluation~~, and shall comply with any administrator (or designee) directives concerning any continued confinement and detention;

ITEM 2. Adopt the following new numbered paragraphs “5” and “6” in rule **281—103.8(256B,280)**:

5. An agency covered by this chapter shall investigate any complaint or allegation that one or more of its employees violated one or more of the provisions of this chapter. If an agency covered by this chapter determines that one or more of its employees violated one or more of the provisions of this chapter, the agency shall take appropriate corrective action. If any allegation involves a specific student, the agency shall transmit the results of its investigation, including any required corrective action, to the parents of the student;

6. If any alleged violation of this chapter is also an allegation of “abuse” as defined in rule 281—102.2(280), the procedures in 281—Chapter 102 shall be applicable.

ITEM 3. Adopt the following new rule 281—103.9(280):

281—103.9(280) Relationship to federal law. If any subsequent federal statute, rule, or regulation imposes a scope, standard, or requirement that exceeds the scope, standards, or requirements of this

chapter, an agency shall comply with the scope, standard, or requirement imposed by that subsequent federal statute, rule, or regulation.